

TOWN OF CAPE ELIZABETH  
MINUTES OF THE PLANNING BOARD

March 23, 2015

7:00 p.m. Town Hall

Present: Peter Curry, Chair Carol Anne Jordan  
Josef Chalot Henry Steinberg  
Elaine Falender Victoria Volent

Also present was Maureen O'Meara, Town Planner.

Mr. Curry opened the meeting and called for the approval of the February 23, 2015 minutes. The minutes were approved 6-0.

NEW BUSINESS

**413 Pulpit Rock Rd Private Road Review** - Nancy Brewer, Trustee of the Nancy Clarke Brewer Revocable Trust, are requesting review of a 250' long private accessway section of Pulpit Rock Rd to create frontage for a new lot located adjacent to 413 Pulpit Rock Rd, Sec. 19-7-9, Private Road completeness.

Mike King, from Mitchell and Associates, summarized the project, which is upgrading road access to create a new lot. Lot 2 will be 93,000 sq. ft. in size and include a 35' wide strip conveyed from an abutting parcel. The section of private road is proposed to be 14' wide with 2' wide grassed gravel shoulders for a total width of 18'. The turnaround area will be concrete pavers and the remainder asphalt. The new lot will be served by a new water line extended from Boat Cove Rd, over another lot owned by the applicant and through an existing PWD easement. The Portland Water District has also noted the need for a meter pit and a pressure reduction valve. The lot will be served by an existing septic system and a new septic system will be constructed for the existing main house.

The applicant is asking for a waiver from the 22' wide traveled way requirement to a reduction to 18' wide. In consultation with the Fire Chief and Code Enforcement Officer, 2 trees will be removed adjacent to Pulpit Rock Rd in the area west of the proposed lot and the applicant will be noting the trees on the plan. Mr. King noted that no additional development will be accessed from this section of Pulpit Rock Rd.

Ms. Falendar asked about the septic systems and Mr. King said a new leach field will be constructed for the main house and he included that information in the second set of materials.

The meeting was opened for public comment on completeness and no member of the public spoke.

Mr. Steinberg asked how close trees will be next to the new section of road and if they will survive. Mr. King said 2 trees would be 2' away from the gravel shoulder and if construction is done with care, such as sawcutting the roots, the trees should survive.

Ms. Jordan noted that the HHE-200 for the existing septic was hard to read and Mr. King said he would resubmit a clearer version.

Mr. Curry noted that four minor pieces of information are needed: easements (some of which were subsequently submitted), drawings for the turnaround for the Fire Chief to approve, transformer easement for the existing and proposed lot, and verification of trees to be removed west of the lot on Pulpit Rock Rd.

Ms. Falendar clarified easement questions, noting that reciprocal easements were needed for the transformer pad. She also wants confirmed that the existing water line easement will permit addition of another water line. Ms. Jordan suggested preparing an easement list. She also confirmed that the road maintenance agreement requires maintaining a 14' wide road year-round.

Mr. Chalot asked about the width of Pulpit Rock Rd from Old Ocean House Rd and Mr. King said it can get as narrow as 12'.

Ms. Volent asked about the Exhibit A referenced in the easement deed and Mr. King said that would be written when the final lot lines were approved.

Ms. Falendar noted that the road width is premised on no new lot access and Mr. King offered to add a note to the plan that no more lot access would be allowed.

Ms. Volent referenced plans L-1 and L-2 where the proposed road segment at 14' wide will connect to existing roads at 10' wide. She would like the plan to be labeled with the existing width and an explanation why 10' will not be expanded. Mr. King said Ms. Karu would like to minimize changes to the road.

Mr. Curry summarized that there are some incomplete items. If the plan is deemed incomplete, the Planning Board will consider completeness and hold a public hearing at the next meeting, scheduled for April 27th.

The board discussed the need for a site walk and agreed to meet on the site on Saturday, March 28th, beginning at 8:00 a.m.

The following motion was made by Ms. Volent and seconded by Ms. Jordan.

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Nancy Clarke Brewer, Trustee of the Nancy Clarke Brewer Revocable Trust, to upgrade a private accessway to a private road in order to establish frontage for a new lot located next to 413 Pulpit Rock Rd, be deemed incomplete.

Staff was instructed to advertise a public hearing for the April 27th Planning Board meeting, which would be held if the application is deemed complete.

#### OTHER BUSINESS

**Land Use Amendments** - The Town Council has referred to the Planning Board the fifth package of amendments, known as the Land Use Amendments, to implement several recommendations predominantly from the Land Use Chapter of the Comprehensive Plan, Sec. 19-10-3, Public Hearing.

Ms. O'Meara briefly introduced the amendments as the fifth package of high priority recommendations from the comprehensive plan. The amendments also include recommendations from the Future Open Space Preservation Committee (FOSP) and advance town goals of open space preservation.

Mr. Curry opened the Public Hearing.

Chris Straw, 597 Shore Rd, commented that the package included a lot of changes and he thanked the Planning Board for their work. Most changes looked good, but he disagreed with some. Specific comments included:

- On page 12, line 16, the term "multi-unit" needs to be defined.
- On page 12, line 33, he is concerned with the change to "decrease" setbacks. He served on the ZBA and questions the intent.

He also had general concerns with the multiplex changes. He applied the proposed ordinance changes to existing lots on Stonybrook Rd and thought the changes would allow too much density on those lots.

No other members of the public were present and the Public Hearing was closed.

Ms. Volent spoke in favor of the multiplex changes. She described her neighborhood as a mix of single and multi-family. The neighborhood is diversified with people of all ages, quiet, with open space and sidewalks and she loves it. You should not be scared if

people move into Stonybrook. Not everyone wants to live in a single family home. The amendments include design standards that may produce a more attractive building than a 3-story, single family "box." The amendments reduce regulatory barriers and benefit the general welfare and she is excited to get these back to the Town Council.

Ms. Jordan noted that if there is a 5 acre lot with multiplex, 45% of the land will be preserved as open space, so there would not be 40 units because there would not be enough space.

Ms. Falendar noted the limitation on density bonuses on page 22, so density increase cannot exceed 30%. Also, side and rear setbacks are related to building height, which may effect the density calculation.

Mr. Chalot said site plan review would include analysis of vehicle traffic, which would be a major factor.

Mr. Curry said he lives in Stonybrook and can see concern, but the ultimate use of those parcels may not lend themselves to development of that kind described. The amendments include tools, subject to rigorous Planning Board oversight.

Mr. Steinberg noted that any development must meet financial/desirability factors, in other words would it sell? We need to stay with the style of Cape Elizabeth. We go up a little more and add some more open space preservation, add to lightness of area and offer more housing options to seniors. It is hard to find a smaller home in Cape Elizabeth for an aging couple.

Ms. Volent asked about the change to "changing" setbacks to "decreasing" setbacks. Ms. O'Meara explained this came out of typical treatment of cluster developments by Planning Boards across the state, and in response to a Law Court decision and change to state statute.

Ms. Jordan made the following motion, seconded by Mr. Chalot:

BE IT ORDERED that, based on the materials submitted and the facts presented, the Planning Board recommends the Land Use Amendments, as revised by consent on March 23rd, to the Town Council for consideration.

The motion was approved 6-0.

The meeting adjourned at 8:30 p.m.